

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 3629	DATE	7/22/2002
CASE TITLE	Arthur Sheridan vs. Village of Bensenville etc.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

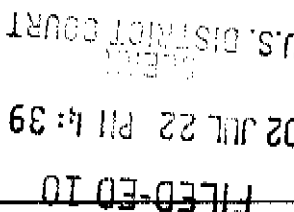

## MOTION:

## Memorandum Opinion and Order

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. Plaintiff now seeks to remand, contending that defendants lost their right to remove when they failed to do so within 30 days of the service of the original complaint. The motion to remand is granted.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	
<input type="checkbox"/>	No notices required.		JUL 23 2002	
<input type="checkbox"/>	Notices mailed by judge's staff.		date docketed	
<input type="checkbox"/>	Notified counsel by telephone.		AKR docketing deputy initials	
<input checked="" type="checkbox"/>	Docketing to mail notices.		date mailed notice	
<input checked="" type="checkbox"/>	Mail AO 450 form.		mailing deputy initials	
<input type="checkbox"/>	Copy to judge/magistrate judge.			
WAH		courtroom deputy's initials		

**DOCKETED**  
JUL 23 2002

**Defendants.**

**Defendants, opposing the motion to remand, contend that the references in the original complaint to federal constitutional rights are vague, and not until the second amended complaint did the plaintiff sufficiently (although not sufficiently enough) set forth a federal**

claim. We disagree. There is, perhaps, a symbiotic relationship between the issues relating to the removal and defendants' motion to dismiss. Defendants contend that there can be no federal constitutional claim because plaintiff has adequate state remedies, which he has *not* pursued. Plaintiff says he is trying to pursue them; that is what his lawsuit is all about. But, say defendants, mandamus to compel the village to initiate an eminent domain proceeding is not the proper way to go. Plaintiff must bring an inverse condemnation proceeding seeking damages. Plaintiff counters by contending that his petition for a writ *is* an inverse condemnation proceeding.

We decline to jump into that controversy. What we do know is that plaintiff, from the start, has claimed that governmental actors destroyed a commercial building on his land without payment of just compensation in violation of specific federal constitutional rights. Whether the violations of those rights triggers a right to an eminent domain proceeding, or whether plaintiff must amend to sue directly for damages or for a declaration, we leave to the state court.

July 22, 2002.

  
JAMES B. MORAN  
Senior Judge, U. S. District Court